IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

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Padam Singh. Versus State of Rajasthan.

S.B. Criminal Revision Petition No.1076/2006

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Date of Order: July 25, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. R.S. Chouhan, for the petitioner.
Mr. V.R. Mehta, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal revision petition under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 14-11-2006 passed by the Additional Chief Judicial Magistrate, Bali, district Pali (for short, "the trial Court" hereinafter), whereby the trial Court took cognizance of the offence under Section 3 (i) (viii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short,

"the Act of 1989" hereinafter).

I have heard learned counsel for the petitioner and the Public prosecutor. Perused the order impugned, as also the record of the trial Court.

It is contended by the learned counsel for the petitioner that the Station House Officer, Bali, district Pali, filed a complaint before the Sub-Divisional Magistrate, Bali under Section 107 and 116 (3) of the Code against complainant Mala Ram and 11 other persons on 21-10-2003. The Sub-Divisional Magistrate issued notice to the non-applicants in the complaint case, including complainant Mala Ram. In pursuance thereof, they appeared before the Sub-Divisional Magistrate. The Sub-Divisional Magistrate directed the complainant and others to file bail bonds to keep the peace and tranquility and be of good behaviour and in pursuance thereof, the complainant and other filed the bail bonds and security bonds for maintaining the peace and tranquility and be of good behaviour for a period of six months. After the period of six months, having maintained the peace and tranquility and be of good behaviour in pursuance of the order of the Sub-Divisional Magistrate, the complainant filed a report stating therein that the petitioner has lodged the complaint maliciously and as such committed the offence under Section 3 (i) (viii) of the Act of 1989.

I have carefully gone through the complaint filed by

the Station House Officer dated 27-10-2003. At any rate, the complaint has not been filed by the present petitioner but by the S.H.O. In the complaint, the role of the petitioner does not appear and it is the Station House Officer of the concerned police station who filed the complaint for preventive measures in order to maintain the peace and tranquility since it was the State Legislative Assembly elections period and at the relevant time, the concerned Station House Officer, who apprehending the breach of peace by complainant Mala Ram and eleven other persons, filed the complaint against them before the Sub-Divisional Magistrate. The report lodged by the complainant was thoroughly investigated by the police and the police filed a negative final report as no such offence, as alleged by the complainant, took place. However, the trial Court took the cognizance of the offence.

In my view, even there is no sufficient material connecting the petitioner with the commission of the alleged crime. The very foundation of the case of the complainant is that the petitioner filed a complaint under Section 107 and 116 (3) of the Code maliciously. From a perusal of the material on record, it appears that no such complaint had ever been filed by the petitioner, but it was the Station House Officer of the concerned police station who filed the complaint. At any rate, the petitioner was not the Station House Officer of the concerned police station

but he was a Head Constable. In such circumstances, the impugned order cannot be sustained and is liable to be set aside.

The criminal revision petition is allowed and the impugned order is set aside. The proceedings against the petitioner stand quashed.

(H.R. PANWAR), J.

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